

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

WORKING ASSETS
FUNDING SERVICE, INC.

DOCKET NO. 02-0122

For a Certificate of Public
Convenience and Necessity to
Provide Interexchange
Telecommunications Service in the
State of Hawaii.

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

DECISION AND ORDER NO. 19478

Filed July 22, 2002
At 1:30 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
WORKING ASSETS)	Docket No. 02-0122
FUNDING SERVICE, INC.)	
)	Decision and Order No.19478
For a Certificate of Public)	
Convenience and Necessity to)	
Provide Interexchange)	
Telecommunications Service in the)	
State of Hawaii.)	
_____)	

DECISION AND ORDER

I.

By an application filed on May 9, 2002, WORKING ASSETS FUNDING SERVICE, INC. (Applicant) requests that the commission grant it a certificate of public convenience and necessity (CPCN) to operate as a switch-less reseller of intrastate long distance telecommunications services within the State of Hawaii (State). Applicant makes its request pursuant to Hawaii Administrative Rules (HAR) § 6-80-17.

HAR chapter 6-80 took effect on June 3, 1996. Among other things, HAR chapter 6-80 replaces the CPCN with a certificate of authority (COA) for telecommunications carriers, and establishes procedures for requesting and issuing a COA. Accordingly, the commission will treat the application in this docket as a request for a COA under HAR chapter 6-80, and review the application under HAR § 6-80-18.

Applicant served copies of the application on the DIVISION OF CONSUMER ADVOCACY of the DEPARTMENT OF COMMERCE AND

CONSUMER AFFAIRS (Consumer Advocate). By Statement of Position (SOP) filed on May 30, 2002, the Consumer Advocate informed us that it does not object to the commission granting Applicant a COA to provide telecommunications services within the State, provided that Applicant revises certain sections of its proposed tariff.¹

II.

Applicant is a California corporation, authorized to conduct business in the State as a foreign corporation. It was incorporated on November 25, 1985, and is a subsidiary of Working Assets, Inc. Applicant is a non-facilities based reseller of telecommunications services.

Currently, Applicant is authorized to provide telecommunications services in 44 states. In Hawaii, Applicant intends to offer message telecommunications service, calling card, and 800 services, on a resold basis, statewide. It intends to offer such telecommunications services on a 24-hour per day basis.

III.

Upon review of the application, the commission makes the following findings pursuant to HAR § 6-80-18:

¹On June 14, 2002, in response to the Consumer Advocate's SOP, Applicant filed tariff revision pages. Additionally, on July 3, 2002, Protective Order No. 19445 was issued with regards to the matters of this docket.

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services;

2. Applicant is fit, willing, and able to properly perform the telecommunications services proposed and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and

3. Applicant's proposed telecommunications services are in the public interest.

Accordingly, the commission concludes that Applicant should be granted a COA to provide resold intrastate telecommunications services in the State. Additionally, based on our review of the record including, but not limited to, Applicant's revised tariff pages addressing the Consumer Advocate's concerns, we also conclude that Applicant should make the following revisions to its proposed tariff.

1. The tariff revisions filed on June 14, 2002, should be incorporated as part of Applicant's proposed tariff.
2. Section 6 (Original Page No. 14) should be expanded by incorporating the provisions set forth in HAR § 6-80-103(b). This section of the rules state that "[i]f service is interrupted by a natural or other disaster beyond the control of the telecommunications carrier, the carrier shall make adjustments and refunds to its affected customers if service is not restored within forty-eight hours."
3. Section 10.1 (Original Page No. 15) should be further amended by: (1) quantifying the deposit amount (HAR 6-80-105(a) specifies that the deposit may not exceed two times the average monthly bill); and (2) actually specifying the Applicant's rules for collecting and refunding deposits.

4. Section 18 (Original Page No. 17) should be clarified to the extent that its prescribed late charge will only apply to charges not in dispute. Additionally, Applicant's late charge assessment should be amended from a 1.5 per cent monthly finance charge to a 1 per cent monthly finance charge.

Furthermore, Applicant requests that it be allowed to retain all of its books and records in California, where its principal place of business is located. We find this request to be consistent with HAR 6-80-136(a)(3). However, pursuant to this rule, Applicant shall promptly make copies of its books and records available to the commission upon request.²

IV.

THE COMMISSION ORDERS:

1. Applicant is granted a COA to operate as a reseller of intrastate telecommunications services in the State.
2. As a holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269, HAR

²HAR § 6-80-136 provides in relevant part:

Standard list of waivers. (a) Unless ordered otherwise by the commission, the following regulatory requirements of chapter 269, [Hawaii Revised Statutes (HRS)], for the provision of intrastate telecommunications services by telecommunications carriers other than the incumbent carrier are waived:

... (3) Requirement that all records and books pertaining to the telecommunications carrier's intrastate operations be located in the State, as mandated by § 269-8.2, HRS. Instead, the carrier shall promptly provide copies of its out-of-state records and books to the commission upon the commission's request[.]

chapters 6-80 and 6-81, any other applicable State laws and commission rules, and any orders the commission may issue from time to time.

3. Applicant shall file tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Accordingly, among other things, Applicant's tariff shall take effect upon filing with the commission, pursuant to HAR § 6-80-40(a), since Applicant's telecommunications services are to be provided on a resold basis, which are fully competitive. Applicant shall ensure that the appropriate effective date is reflected in its tariffs. In the event of a conflict between any provision of a tariff and State law, State law shall prevail.

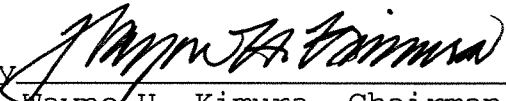
4. Applicant shall conform its proposed tariff to the provisions of HAR chapter 6-80 by, among other things, incorporating the tariff revisions set forth in section III of this decision and order. An original and eight copies of the tariff, complete with the revised pages, shall be filed with the commission, and two copies of the same shall be served on the Consumer Advocate.

5. Within 30 days of the date of this decision and order, Applicant shall pay a public utility fee of \$60, pursuant to HRS § 269-30. Checks shall be made payable to the Hawaii Public Utilities Commission and sent to 465 South King Street, Room No. 103, Honolulu, Hawaii, 96813.

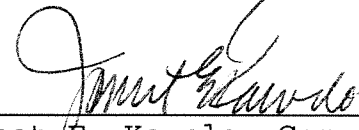
6. In accordance with HAR § 6-80-39, Applicant shall not offer, initiate, or provide any telecommunications services within the State, at wholesale or retail, until it complies with the requirements set forth in this decision and order.

DONE at Honolulu, Hawaii this 22nd day of July, 2002.

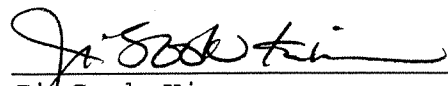
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Dennis R. Yamada, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

02-0122.ah

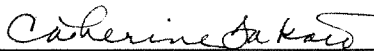
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19478 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
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Catherine Sakato

DATED: July 22, 2002